

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DEVOCEAN JEWELRY LLC,

Plaintiff,

Docket No. \_\_\_\_\_

-against-

JURY TRIAL DEMANDED

NBCUNIVERSAL MEDIA, LLC

Defendant.

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**COMPLAINT**

Plaintiff Devocean Jewelry, LLC (“Devocean” or Plaintiff”) by and through its undersigned counsel, for its Complaint against defendant NBCUniversal Media, LLC (“NBC” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted video of Lila, a black Labrador Retriever, diving off of a boat and catching a lobster on the ground floor of the ocean owned and registered by Devocean, a Florida based jewelry company. Accordingly, Devocean seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the provisions of the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338 (a).

3. This Court has personal jurisdiction over the Defendant because Defendant resides in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. §1391 (b).

### **PARTIES**

5. Devocean is a jewelry company that sells products ranging from necklaces, rings, and bracelets related to the ocean, having a usual place of business at 2200 North Federal Highway, 229A, Boca Raton, FL 33431. Twenty percent of the net profits of Devocean goes to Sea Turtle Rescue and Ocean Conservation Programs such as the Florida Atlantic University's Marine Research Lab at Gumbo Limbo Nature Center to save hurt and sick turtles. Devocean is a social enterprise intended to raise awareness about the growing fragility of marine habitats and encourage people to take immediate action to make the oceans clean and free from pollution.

6. Upon information and belief, NBC is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business at 30 Rockefeller Plaza, New York, NY 10112. Upon information and belief, NBC is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, NBC has and continues to produce the live morning television show *The Today Show* which is broadcasted on NBC affiliates around the United States. At all times material hereto, NBC has operated and continues to operate the website [www.NBCNews.com](http://www.NBCNews.com).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Video**

7. On or about March 31, 2015, Alex Schulze, co-founder of Devocean, videotaped himself training his black Labrador Retriever dog named Lila to dive off a boat and catch a lobster on the ground floor of the ocean (the "Video").

8. On or about November 25, 2015, Plaintiff published the Video on their website, [www.DevotedtotheOcean.com](http://www.DevotedtotheOcean.com) as a way to drive traffic to their website for people to buy their jewelry products where twenty percent of the net profits go to the Florida Atlantic University's Marine Lab at Gumbo Limbo Nature Center to save hurt and sick turtles, to educate people about the ocean and sea animals, and to get donations for Sea Turtle Rescue and Ocean Conversation Programs. Plaintiff's watermark was placed on the Video identifying them as the owner of the Video.

9. Devocean is the author of the Video and has at all times been the the sole owner of all right, title and interest in and to the Video, including the copyright thereto.

10. The Video was registered with the Copyright Office and was given Copyright Registration Number PA0001972664 (*Lila Diving For Lobster*) effective February 8, 2016. A true and correct copy of the Certificate of Registration of the Video is attached hereto as Exhibit A (VA 1-972-664).

**B. Defendant Infringing Activities**

11. Upon information and belief, on or about November 27, 2015, Defendant copied the Video without Plaintiff's permission or authority and broadcasted the Video on *The Today Show*.

12. Upon information and belief, on or about November, 27, 2015, Defendant copied the Video without Plaintiff's permission or authority and broadcasted the Video on their website [www.NBCNews.com](http://www.NBCNews.com) driving web traffic away from Devocean's website.

13. Defendant did not license the Video from Plaintiff for use on *The Today Show* or [www.NBCNews.com](http://www.NBCNews.com) nor did Defendant have Plaintiff's permission or consent to broadcast the Video on *The Today Show* or [www.NBCNews.com](http://www.NBCNews.com).

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST NBC)**  
**(17 U.S.C. §106, 501)**

14. Plaintiff incorporates by reference each and every allegation contained in paragraphs 1-13 above.

15. Defendant infringed Plaintiff's copyright in the Video by reproducing and publicly displaying the Video on *The Today Show* and [www.NBCNews.com](http://www.NBCNews.com). Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Video.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional and purposeful, in disregard of and indifference to Plaintiff's rights.

18. As a direct and proximate cause of the infringement by Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504 (b).

19. Alternatively, Plaintiff is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

20. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That NBC be adjudged to have infringed upon Plaintiff's copyright in the Video in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Video; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That NBC be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
March 15, 2016

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